



Appendix 1 – Agency Correspondence



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
ARIZONA-NEVADA AREA OFFICE
3636 NORTH CENTRAL AVENUE, SUITE 900
PHOENIX, ARIZONA 85012-1939

REPLY TO

January 21, 2004

Office of the Chief
Regulatory Branch

Suzan Curtin
Arizona Department of Transportation
205 S. 17th Avenue, MD 619E, Room 213E
Phoenix, Arizona 85007

File Number: 2004-00440-CJL

Dear Ms. Curtin:

Reference is made to your letter of December 4, 2003 in which you inquired as to the jurisdictional limits of Section 404 of the Clean Water Act for Scatter Wash, Skunk Creek, Deadman Wash, New River and other unnamed ephemeral washes located at (Section 14, T4N, R2E, Sections 3, 11, & 35, T5N, R2E, Sections 3, 10, 22, 27, & 34, T6N, R2E, and Sections 27 & 34 R7N, R2E), Phoenix, Maricopa County, Arizona. The request was made as part of the Arizona Department of Transportation's I-17, SR 101L to New River Road Traffic Interchange Project (TRACS No: 017 MA 218 H5162 01L).

The enclosed aerial photographs delineate the waters of the United States, including wetlands, regulated by Section 404 of the Clean Water Act. This approved jurisdictional determination will remain in effect for five years from the date of this letter unless an unusual flood event occurs. After this five-year period or after an unusual flood event alters stream conditions, the Corps of Engineers reserves the authority to retain the original jurisdictional limits or to establish new jurisdictional limits as conditions warrant.

Each water of the United States herein delineated is an interstate water or a water that is tributary to an interstate water. The Section 404 jurisdictional limit for a water of the United States is defined at 33 CFR Part 328. The jurisdictional limit for a non-tidal water of the United States is determined by the jurisdictional wetland boundary and/or the ordinary high water mark. The jurisdictional limit of a wetland is determined in accordance with the Corps of Engineers 1987 Wetlands Delineation Manual. Otherwise, presence of the indicators stated in the definition of ordinary high mark (33CFR 328.3(e)) are used to establish the jurisdictional limit of a water of the United States. The basis of this jurisdictional determination is shown on the enclosed checklist.

Any discharge of dredged or fill material within the designated jurisdictional area requires a Section 404 permit from the Corps of Engineers. The Corps of Engineers emphasizes avoidance of the delineated jurisdictional area. Please review this delineation and evaluate your proposed activity to ensure that avoidance of the jurisdictional area is given full consideration in your design. If all discharges of dredged or fill material occur outside the designated jurisdictional area, no Section 404 permit is required. If avoidance is not practicable, please reference File Number 2004-00440-CJL when submitting your Section 404 permit application to the Corps of Engineers. Please be advised that your application needs to substantiate that avoidance of designated jurisdictional areas is not practicable and substantiate that impacts to waters of the United States have been minimized.

Furthermore, you are hereby advised that the Corps of Engineers has established an Administrative Appeal Process for jurisdictional determinations which is fully described at 33 CFR Part 331. The Administrative Appeal Process for jurisdictional determinations is diagrammed on the enclosed Appendix C. If you decide not to accept this approved jurisdictional determination and wish to provide new information please send the information to this office. If you do not supply additional information you may appeal this approved jurisdictional determination by completing the attached "Notification of Administrative Appeal Options and Process and Request for Appeal" form and submitting it directly to the Appeal Review Officer at the address provided on the form.

The receipt of your letter is appreciated. If you have questions, please contact Dana Owsiany, P.E. at (602) 640-5385 x 254.

Sincerely,

"ORIGINAL SIGNED BY"

Cindy Lester, P.E.
Chief, Arizona Section
Regulatory Branch

Enclosure(s)

Copies Furnished:
(Without Enclosures)

Laura N. Gerbis
Jacobs Civil Inc.
875 West Elliot Road, Suite 201
Tempe, Arizona 85284

Basis of Jurisdictional Determination

Date of desk determination: January 21, 2004

Supporting documentation:

- ☒ Applicant's proposed jurisdictional determination
- ☐ Wetland delineation following 1987 Corps Wetland Delineation Manual
- ☒ Aerial photography interpretation
- ☒ Ground photographs/videotape of site
- ☒ Topographic map interpretation
- ☒ Review of historical records and/or aerial photography
- ☒ Comparison of previously accepted delineations of the area
- ☒ USGS map(s)
- ☒ Flow data (drainage reports, modeled flows, USGS gage data, or other sources)
- ☐ Floodplain maps
- ☐ Soil Maps
- ☐ Environmental Assessment/ Environmental Impact Statement
- ☐ National Wetland Inventory Maps
- ☐ Staff knowledge of precipitation and fluvial dynamics of the region
- ☐ Biological resource reports
- ☐ Other

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Arizona Department of Transportation	File Number: 2004-00440-CJL	Date: January 21, 2004
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Attached is:	See Section below
<input type="checkbox"/> INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/> PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/> PERMIT DENIAL	C
<input checked="" type="checkbox"/> APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/> PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the DISTRICT engineer. Your objections must be received by the DISTRICT engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the DISTRICT engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) engineer (address on reverse). This form must be received by the DIVISION (not district) engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) engineer (address on reverse) engineer. This form must be received by the DIVISION (not district) engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) engineer (address on reverse) engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL OF PROFFERED PERMIT, PERMIT DENIAL, OR APPROVED ID TO DIVISION ENGINEER or SUBMITTAL OF OBJECTIONS TO AN INITIAL PROFFERED PERMIT or NEW INFORMATION FOR APPEAL OF APPROVED JURISDICTIONAL DETERMINATION TO DISTRICT ENGINEER

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
DISTRICT ENGINEER
Los Angeles District, Corps of Engineers
Attn: Chief, Regulatory Branch
PO Box 532711 Los Angeles, CA 90053 (213-452-3425)

If you only have questions regarding the appeal process you may also contact:
DIVISION ENGINEER
Army Engineer Division, South Pacific, CESPD-CM-O
Attn: Doug Pomeroy Administrative Appeal Review Officer
333 Market Street San Francisco, CA 94015 (415-977-8035)

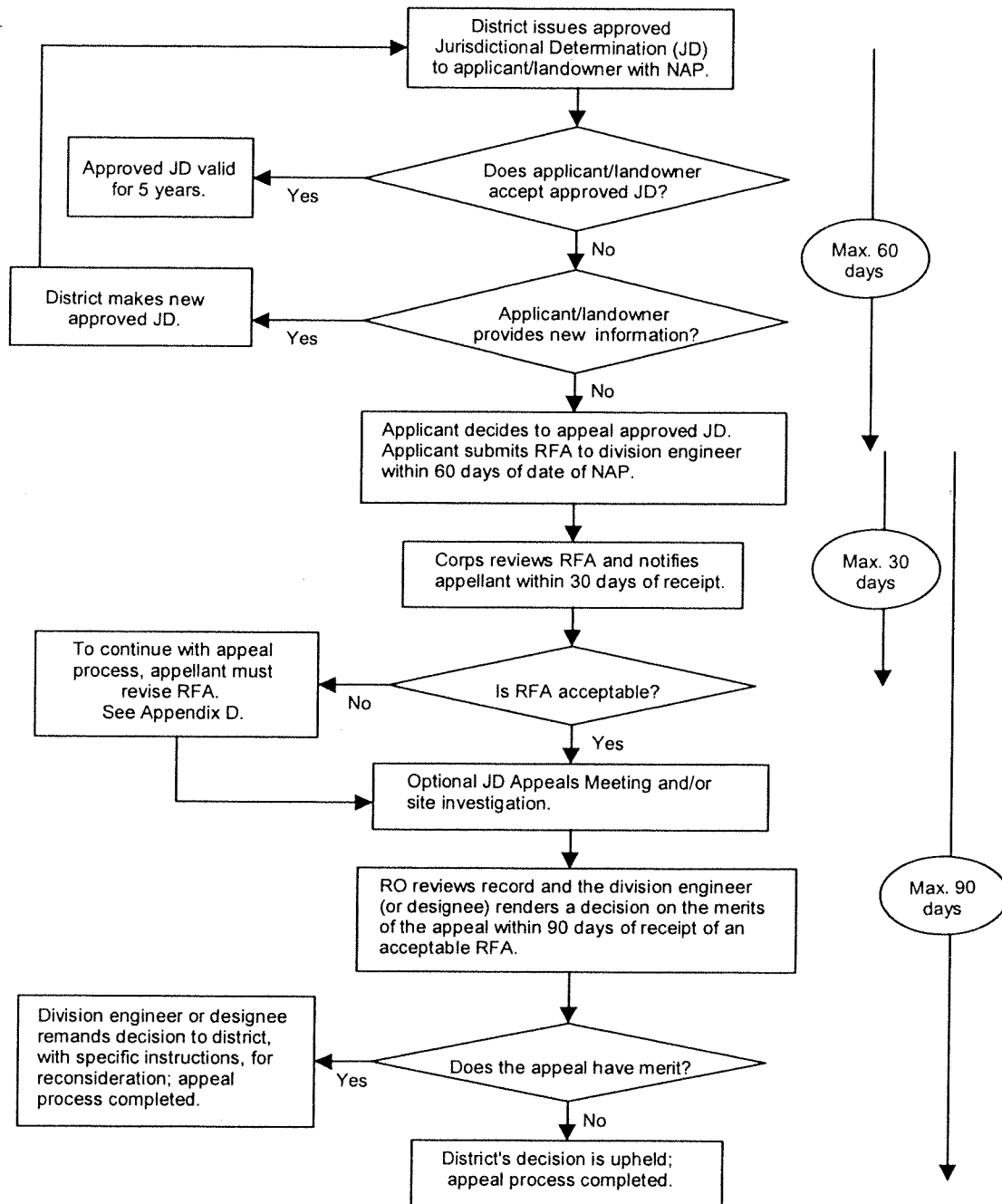
RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

Administrative Appeal Process for Approved Jurisdictional Determinations APPENDIX C





City of Phoenix

STREET TRANSPORTATION DEPARTMENT

October 15, 2003

Ms. Laura N. Gerbis, AICP
Environmental Planner
Jacobs Civil, Inc.
875 W. Elliot Road, Suite 201
Tempe, Arizona 85284

Dear Ms. Gerbis:

This is in response to your October 10, 2003, letter to Mr. Tom Callow, Street Transportation Director, requesting comments on the draft Environmental Assessment for I-17, SR 101 L to New River Road.

Page 13: The last sentence of the first paragraph states that a continuous frontage road system would also provide improved access for bicyclists and pedestrians. In our judgment, bicycling and walking should not be encouraged along the frontage roads. The land uses adjacent to the frontage roads should have site plans designed to promote interior pedestrian and bicycle movement with access to east-west streets by way of local and collector streets rather than the frontage roads. This sentence should be deleted.

Page 21: The second paragraph states that new frontage roads would be built by the City in conjunction with new interchanges. In fact, the new frontage roads would be constructed either by the City or by developers as a requirement of development approval. The new frontage roads need not be constructed at the same time as new interchanges; the interchanges could well be constructed in advance of the frontage roads. The new I-17 interchanges in this area are prioritized in different time periods in the MAG draft Regional Transportation Plan. Suffice it to say that the City is responsible for the construction of new frontage roads in the reaches cited.

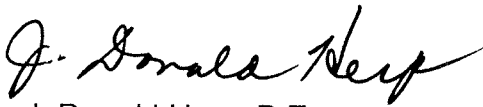
Page 22: Figure 8 requires some modifications. There is no crossroad planned by the City at Dynamite Boulevard in the vicinity of I-17. There are additional arterial streets, in the area covered by the Figure, that are not shown, such as North Valley Parkway. We do not see the distinction between Planned City Arterial Street and Planned or Existing Cross Road. All of the Planned or Existing Cross Roads shown in Figure 8 are City Arterial Streets, even Carefree Highway, which is also a state highway.

Ms. Laura N. Gerbis, AICP
October 15, 2003
Page 2

Page 46: The third paragraph should specifically mention the new secondary access road being constructed by the City to serve the existing development north of Happy Valley Road on the west side of I-17. This road should be under construction in about one year and completed in early 2005. It will include an all-weather crossing of Buchanan Wash, south of Pinnacle Vista Road on 33rd Avenue.

Thank you for the opportunity to review this document. Please call me at 602-262-4872 if you have any questions about these comments.

Sincerely,

A handwritten signature in black ink, reading "J. Donald Herp". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

J. Donald Herp, P.E.
Deputy Street Transportation Director

TEC/JDH/smS:\PDP\HERP\2003\1003.doc

cc: Mr. Richert
Mr. Leonard
Mr. Zuercher



302 North 1st Avenue, Suite 300 ▲ Phoenix, Arizona 85003
Phone (602) 254-6300 ▲ FAX (602) 254-6490
Email: mag@mag.maricopa.gov ▲ Website: www.mag.maricopa.gov

November 19, 2003

Tami Wollaston, Project Manager
ADOT Roadway Predesign – Studies
1739 W. Jackson St., MD 050P
Phoenix, AZ 85007

Dear M. Wollaston,

The Maricopa Association of Governments (MAG) has received for comment a copy of the "Draft Environmental Assessment and Section 4(f) Evaluation for the I-17 Widening Design Concept Study" (draft EA) dated October 2003. Thank you for the opportunity to comment. We have two principal comments.

First, the draft EA references the MAG Long Range Transportation Plan (LRTP), which was last updated in 2002. On November 25, 2003, the MAG Regional Council is expected to approve the new Regional Transportation Plan (RTP), which will supersede the LRTP. The draft EA should therefore be updated to reference the RTP instead of the LRTP, as the proposed widenings for I-17 are not specified in the LRTP.

The RTP specifies widenings for this section of I-17, but these are fiscally-constrained and not to the extent described in the draft EA. It is expected, however, that the RTP will be updated presently to specify ultimate concepts for major regional facilities including I-17, and the ultimate concept for I-17 north of Loop 101 to New River is expected to be consistent with the recommendations of the Design Concept Report currently in development for that section.

Second, the draft relies upon "worst case" modeling rather than modeling of the specific facility and alignment as contained in the new RTP. It is preferred that the draft be revised to incorporate modeling of the proposed improvements for I-17 using updated modeling networks that are consistent with the new RTP.

If you have any questions or comments, please contact Chris Voigt or me at (602) 254-6300.

Sincerely,

Eric Anderson
Transportation Director



Maricopa County

Department of Transportation

2901 W. Durango Street
Phoenix, Arizona 85009
Phone: (602) 506 8600
Fax: (602) 506-4858

November 20, 2003

Don Smith
Jacobs Civil Inc.
875 W. Elliot Road, Suite 201
Tempe, Arizona 85284

Subject: Draft Environmental Assessment
I-17, SR 101L Interchange-New River Road
TRACS No. 017 MA 214 H5162 01L

Dear Mr. Smith:

In response to your submittal dated October 10, 2003, MCDOT has reviewed the Draft Environmental Assessment for the subject project. MCDOT does not have any comments at this time. Please provide me with a copy of the Final EA upon its completion.

Thank you for the opportunity to comment on this project.

A handwritten signature in black ink, appearing to read "Craig Seppelfrick".

Craig Seppelfrick
Environmental Planning Manager



Janet Napolitano
Governor

Victor M. Mendez
Director

Arizona Department of Transportation

Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007

Debra Brisk
Deputy Director

Mr. Eric Anderson
Maricopa Association of Governments
302 North First Avenue, Suite 300
Phoenix, AZ 85003

Re: I-17 Widening Study
TRACS No. 17 MA 215 H5162 01L
Response to Draft EA Comments

Dear Mr. Anderson:

Thank you for your November 19, 2003, comments on the I-17 Widening Study Draft Environmental Assessment (EA).

In response to your first comment, requesting that the EA be updated to reference the new Regional Transportation Plan (RTP) rather than the previous Long Range Transportation Plan, the Final EA will reference the RTP. ADOT agrees that the RTP should be updated to reflect the "ultimate" configuration of I-17 from SR 101L to the north.

With respect to your second request that the traffic analysis for the study be revised using MAG's updated modeling networks, we feel that such a time consuming update may not be necessary since our original analysis, completed in October 2000, used an "enhanced" version of the MAG 2020 network, which included a wider mainline, new TIs between Happy Valley Road and Carefree Highway, the new Daisy Mountain TI, and arterial street improvements.

Thank you for your comments. Please let me know if you need additional information.

Very truly yours,

Tami Wollaston
Pre-Design Project Manager

cc: S. Beasley, ADOT VPM
M. Viparina, ADOT Predesign
S. Curtin, ADOT EEG
M. Chase, SCI





Janet Napolitano
Governor

Victor M. Mendez
Director

Arizona Department of Transportation

Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007

Bill Higgins
Acting State Engineer

December 4, 2003

U.S. Army Corps of Engineers, Arizona Section Regulatory Branch
Los Angeles District
3636 North Central Avenue, Suite 760
Phoenix, Arizona 85012-1936

Attention: Dana Owsiany

SUBJECT: I-17, SR 101L to New River Road TI
Design Concept Study
Project No.: 017-A(874)
TRACS No. 017 MA 215 H5162 01L

Dear Ms. Owsiany:

The Arizona Department of Transportation and the Federal Highway Administration are proposing improvements to a 17.5-mile segment of I-17 from northern Phoenix to New River in Maricopa County (maps attached). The project area begins just south of the I-17/State Route (SR) 101L Traffic Interchange (TI) at milepost (MP) 214.5 and ends at the New River Road TI (MP 232.0). The information included in this submittal extends to approximately MP 232.6 in order to include culverts that could potentially be affected by the roadway taper from the improved section to the existing lanes north of the New River Road TI.

The purpose of the project is to alleviate congestion and improve traffic operations on I-17 by providing additional capacity and improving or constructing frontage roads. The preferred alternative for this project includes adding lanes to the inside of the I-17 mainline, adding lanes with bridge widening through the I-17/SR 101L TI, and implementing continuous one-way frontage roads south of Carefree Highway. The Draft Environmental Assessment (DEA) for this project was approved and released for public and agency review in October 2003.

The attached package contains a proposed jurisdictional delineation of waters of the U.S. within the project area, as defined by Section 404 of the Clean Water Act. This package includes the following items for your review:

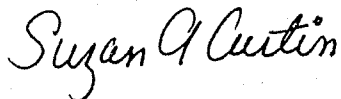
- A state map indicating the project location.
- A project vicinity map showing the MP limits of the project area and major identifying features within the corridor.



- U.S. Geological Survey topographic quadrangle maps for proposed jurisdictional locations at 1:24,000 scale.
- A summary matrix of existing water conveyance structures in the project area, flow data, channel characteristics, and anticipated impacts.
- Annotated site visit photographs. The site photos provide inlet and outlet views of each conveyance structure in the project area, and upstream and downstream views along each channel. Photographs are unavailable for 21 locations, due to factors such as roadside vegetation obscuring median drop inlets or lack of safe access to culverts within TIs.
- One set of 34 plots including the aerial photographs, proposed improvements, identifying features in the project area, and proposed jurisdictional areas; two additional sets without the proposed jurisdictional areas are also provided. The airphotos were taken in January 2002 and are at a scale of 1 inch = 100 feet. The proposed right-of-way lines on the sheets indicate the limits of the area surveyed. (Please note that although Sheet 34 shows the future widening of I-17 north of the New River Road TI, which ADOT is currently investigating in a Design Concept Study that continues north to Black Canyon City, the improvements proposed north of the New River Road TI are not included in the scope of work for the SR 101L to New River Road project.)

If you have any questions or require additional information, please contact either Laura N. Gerbis at Jacobs (480-763-8715) or me (602-712-6551). Your assistance is appreciated.

Sincerely,



Suzan A. Curtin
NEPA Planner

Enclosures: State location map
Project area map
USGS topographic maps
Summary matrix
Annotated site photos
Plots (1 set showing proposed jurisdictional areas; 2 sets without)

c: Don Smith, Jacobs Civil Inc. (letter only)